



2002 SHEEP ANNUAL PREMIUM SCHEME: QUOTAS

Notification of Permanent Transfer or Lease of Quota

Explanatory Leaflet

Forms must be completed and returned to the Department no later than 4 February 2002.

IMPORTANT

Please read this leaflet carefully before completing either a notification of transfer or lease of quota form. You should only use these forms if, as the transferrer or lessor or recipient of the quota you wish the permanent transfer or lease to take effect in the 2002 Scheme year. The relevant forms are SAP-TRANSFER-2002 and SAP-LEASE-2002.

It is your responsibility to obtain the relevant form, complete it correctly and ensure that it is received by the Department no later than 4 February 2002. (In this context 'the Department' means Quota Management Section at the address on page 4 or any of the Department's local area offices). Although the Sheep Annual Premium Scheme has a 25 day period of grace during which claims can be submitted, this does not apply to transfer or lease notification forms. Transfer and Lease forms will not be accepted after 4 February 2002.

Proof that you posted your notification is not sufficient. You must be able to show that it has been received.

You are therefore advised to obtain acknowledgement of receipt of the transfer or lease notification form from the Department by completing an acknowledgement card, affixing a stamp and returning it with your form. Cards which do not have a stamp or are not completed, (whether or not they have a stamp) will not be returned.

If you have not received your acknowledgement within 7 working days of despatch, please contact the Department.

If you deliver the form personally to the Department, you should obtain an acknowledgement of receipt at the time of delivery. Quota Management Section's address is printed on page 4.

• Introduction

1. The deadline for returning completed 2002 transfer or lease notification forms is the closing date for the receipt of Sheep Annual Premium Scheme claims excluding the period of grace, ie. 4 February 2002.
2. **This deadline is always rigidly applied and transfer and lease notifications which are received even one day after the closing date will be rejected.** There is no avenue for appeal against the rejection of forms received after the closing date. Producers must therefore ensure that their transfer or lease notification is received by the Department on or before 4 February 2002.
3. If you doubt whether your posted notification form will arrive at the Department by the deadline you are advised to deliver it by hand. If you are unable to do this, the Department can take the date it receives a faxed copy of your completed form as the date of receipt, provided the original form (identical in every

respect to the faxed version) is posted to the Department immediately. When posting the original form you should indicate clearly that it is a hard copy of one previously faxed to the Department. It is recommended, however, that the faxing facility should only be used in exceptional circumstances where it is not possible for you to post the form or deliver it to the Department in time for it to arrive by the deadline.

IMPORTANT CHANGES

Producers taking part in Environmental Schemes who transfer or lease out quota may be in breach of those Scheme rules. (See paragraph 35 of this leaflet).

4. Ewe premium quota may only be transferred or leased between sheep producers and no transfer or lease will be effective until after it has been notified to, and registered by the Department. Notifications to take effect in the 2002 Scheme year should be made on the relevant form.
 5. Please note that if a transfer or lease of quota is accepted by the Department, payment of premium on any application which you subsequently make under the 2002 Scheme year will be limited to the number of quota rights you have retained following the registration of this and any other transfers or leases of quota which you notify to the Department.
- **Eligibility to transfer or lease out quota**
 - 6. Please note that you **cannot transfer or lease out quota** if either:
 - you have received **national reserve** quota from the 2000, 2001 or 2002 Scheme years. This rule will be waived in the event of a producers death. If you are proposing to transfer or lease out national reserve quota on behalf of a deceased producer you may wish to contact Quota Management Section for details of the special rules which apply in such circumstances.
 - or**
 - you received a **supplementary allocation** of quota effective from the 2000 or 2001 Scheme years (see note below);
 - or**
 - you intend to request or have received a **supplementary allocation** of quota to take effect from the 2002 Scheme year (see note below).

NOTE: Producers who were participating in the pilot Sheep Extensification Scheme or an Environmentally Sensitive Areas Scheme in 1991 may be entitled to a supplementary allocation of quota when participation in those Schemes ends.

7. You may transfer or lease out quota if you applied to the 2000, 2001 or 2002 national reserves and have been informed that you **will receive no quota**.

8. If you do not currently hold enough quota to cover your 2002 Sheep Annual Premium Scheme (SAPS) claim, you should be aware that the stocking density which governs your entitlement to Beef Special Premium, Suckler Cow Premium or Extensification Premium in 2002 will be based on the number of sheep for which you do hold quota. If you acquire additional quota to cover your 2002 SAPS claim, the number of sheep counted against your stocking density will increase as a result. This could affect your 2002 entitlement to Beef Special Premium, Suckler Cow Premium or Extensification Premium. If you are in any doubt about how the acquisition of additional quota will affect your beef premium payments you should contact your Local Area Office for advice.

- **Who should complete the form?**

9. Section A of either form should be completed by the producer disposing of the quota. Section B should be completed by the producer receiving the quota who should enter the trading title of the business, unless it trades as a sole trader or producer group, in which case the full name of the individual receiving the quota should be entered.

- **Death of a Quota Holder**

10. Where a producer in possession of quota dies, and the quota passes to a beneficiary/beneficiaries, formal registration of the transfer to the beneficiary/beneficiaries **MUST** be lodged with the Department no later than 4 February 2002 in order for it to be effective in the 2002 Scheme year. (see also paragraph 6)

- **Usage Rule**

11. For the **2002** Scheme year the rule is that you must use at least 70% of your quota units either by claiming Sheep Annual Premium and/or leasing out quota. If you fail to meet this requirement, and unless you can demonstrate that you, or your family business, were subject to exceptional circumstances which prevented you using your quota rights, the part you did not use during that year will be withdrawn from you, without compensation.

12. Recipients of quota should note: (a) If you receive a transfer of quota such that it is more than you require to cover a claim in **2002** for Sheep Annual Premium, it will nevertheless normally be subject to the usage rule; (b) that if you acquire quota by lease it will not be taken into account for the purpose of the usage rule.

- **What if I am a member of a Producer Group**

13. Each member of a producer group must ensure that they have sufficient quota registered in their own name to cover their share of the sheep on which the group is submitting a claim for premium in 2002. When transferring or leasing out any quota surplus to the group's requirements each member will have to enter into his/her own transaction(s).

Transfers are likely to attract the 15% siphon. Similarly, when a group is transferring or leasing in quota, each member of the group will have to transfer or lease in to

his/her name the number of rights needed to cover their share of the flock on which premium is being claimed in 2002. Quota can not be transferred or leased in or out by the Group itself.

If you are in any doubt you should seek clarification from the livestock quota management section.

- **What if I wish to transfer or lease out quota to more than one producer?**

14. You must fill in **separate** notification forms for each transfer or lease. You must also indicate on the form the number of separate notifications you propose to make.

- **The siphon**

15. For each separate transfer notified to the Department, 15% of the quota to be transferred will be "siphoned off" from the producer transferring out the quota (without payment) into the national reserve.

16. Under the Community rules, **if application of the siphon produces a figure of less than one as the amount to be put into the reserve, the figure will be rounded up to one**. In other cases where the application of the siphon produces a result which is not a whole number, the nearest whole number will be used. If the result ends in .5, the higher whole number will be used, (for example, a result of 4.5 will be rounded up to 5).

- **When I lease quota will a percentage be "siphoned off" to the national reserve?**

17. No. The "siphon" applies only to permanent transfers of quota.

- **Exemption from the siphon**

18. The siphon will apply in all cases **except** where the following conditions are satisfied:

(i) you transfer **all** your quota at the same time as **all** your holding;

and

(ii) your quota is transferred **exclusively** to the recipient or recipients of your holding;

and

(iii) the recipient or recipients of your holding **all** receive quota.

19. In addition, the siphon does **not** apply if you farm common land **only**, decide to stop grazing your sheep on that land, and transfer **all** your quota to one or more producers.

20. If you are claiming exemption from the siphon, you **must** provide documentary evidence that you are transferring all your quota with all your holding, for example a copy of a solicitor's letter confirming the transaction. The evidence must show that the transfer of the holding is taking place at the same time as the transfer of the quota (or within the period defined in paragraph 26). If you are transferring all your holding to more than one recipient, the evidence should be sufficient to satisfy the Department that all conditions outlined in paragraph 18 or 19 are met.

21. When entering the number of quota units to be transferred at Question 6 of the transfer form you should **make no allowance** for the deduction of any quota that might be siphoned off. Any adjustment will be made by the Department.

- **Transfers or leases within Producer Groups**

22. Under current EC rules SAP quota is registered in the name of individual producers rather than in the name of the producer group. This means that in order to maximise SAP payments to the producer group, the apportionment of the flock between the members should match the amount of quota registered in the name of each individual member. Individual members of the producer group may transfer or lease quota to other members to achieve this balance.
23. For them to be eligible to be exempt from the siphon the transferor and transferee must remain within the producer group for a period of three years following the year in which the transfer takes place, i.e. for transfers taking place in **2002**, up to and including the **2005** SAP Scheme year. In addition, **both parties** must, for the above period, continue to meet the definition of a sheep producer for the purpose of the SAP Scheme, i.e. they must regularly assume the risks or organise the rearing of 10 or more **eligible** ewes and must retain at least 10 quota units and submit claims for SAP.
24. If **either** of the conditions mentioned in paragraph 23 is breached, **at any time** during the above period, the siphon will be applied from the year in which the breach occurs.
25. To prove eligibility for exemption from the siphon, the Department requires documentary evidence that both the transferor and transferee are in the same group. To this end a letter from the group's accountant or bank manager **must** be provided which confirms that the transferor and transferee are members of the **same** group and which gives the names of all the members of that group.

- **Transfer of holding**

26. For transfers of quota which are to take effect in the 2002 Scheme year, the Department will regard the transfer of quota as taking place at the same time as the transfer of the holding if it is satisfied that **one** of the following conditions apply:
 - i. the transfer of the holding took place after 3 December 2000;
 - ii. the transfer of the holding has not yet taken place but the recipient of the quota is under an obligation to take over the holding before 4 February 2002 ie the date on which the 2002 Sheep Annual Premium scheme application period closes.
27. The transfer of your holding could include a transfer of ownership or a transfer of tenancy. The transfer of land via a short-term let will be regarded as a valid transfer for the purpose of the siphon rules as long as there is an exclusive right of occupation with rent, and not an informal arrangement. Transfers which do not involve tenancies (i.e. do not give exclusive right of occupation for the period in question - e.g. short-term grazing and mowing lets other than tenancies) will not be regarded as transfers of the holding.
28. If you transfer out your holding in lots over a period of time, you will be regarded as having transferred your holding only after the last lot has been transferred.

- **Limits on Leasing**

29. **You should note that you cannot lease out quota which you have leased in from another source.**
30. Starting with the year in which your first lease becomes effective, you may not lease out quota for more than

three successive years. When your period of leasing out has ended (i.e. after one, two or three years) there must be a **two year gap** before you lease out again.

31. For example, a producer who leases out quota in 2002 and then again in 2003 may decide not to lease out quota in 2004. If he does so, he may not lease out quota in 2005 either: **A one year gap between leases is not possible.**
32. At the end of the leasing period, except where the producer transfers out his rights, the producer who owns the quota must use the rights him/herself to claim premium for at least two consecutive years. The normal usage rules, detailed in paragraphs 11 and 12, will apply during those two years.
33. The lease notification will not be processed by the Department if it is clear that the requirement outlined above will be breached.
34. If you are leasing in quota, it is in your interests to obtain confirmation that the producer leasing out the quota will meet the requirement outlined in these paragraphs. If the requirement is not met, you will not be able to use the quota you have leased, and your premium payments will be affected.

- **Producers taking part in Environmental Schemes**

35. If you are a producer taking part in an environmental scheme recognised by the European Commission and that scheme involves extensification of livestock, you may lease out quota **for the duration of your agreement** as long as you signed and lodged your scheme application **before 22 July 1994**. If you signed and lodged your application form for these Schemes **after 21 July 1994** any attempt to transfer or lease out quota would be a breach of those Scheme rules which could result in the application of penalties.

If you make stock reductions other than as part of the stock disposal option, the normal rules on transfer and lease of quota, will continue to apply (see paragraph 30). Producers who participate in the stock disposal option will be exempt from the normal quota usage rule for the duration of their participation in the Scheme.

- **Ring-fences**

36. Quota is designated as being within a particular ring-fence. Your quota will have been designated as:
 - the LFA areas of the Scottish Highlands and Islands; or
 - the remainder of the Scottish LFA; or
 - the Great Britain non-LFA.
37. The ring-fence rules are as follows:
 - you are assigned to one ring-fence only, depending on the location of the greatest proportion of your holding; The ring-fence designation of your holding for the 2002 Scheme year will be determined by the land you hold on the date on which you submit your claim for premium (see paragraphs 39 to 42 for a definition of which land is included).
 - you can be paid premium **only** if you have quota corresponding to the correct ring-fence for your location;
 - as a general rule, the ring-fence designation of quota cannot be changed when it is transferred from one producer to another. There is an

exception if you are participating in an Environmentally Scheme (and your participation requires you to reduce livestock numbers for extensification purposes). You may then, as a producer in the Highlands and Islands or Rest of Scotland LFA, transfer or lease out LFA quota released as a result of a reduction in stocking levels required by your participation in one of these schemes, to a producer in the Great Britain non-LFA provided that producer is participating in a European Commission approved scheme requiring him/her to **increase** sheep numbers.

38. Your recipient will only be able to receive your quota if its ring-fence designation matches that of his or her holding. You are therefore advised to check that the recipient's holding will be located in the correct ring-fence before entering into the transfer or lease.

Important

- If you move to a different ring-fence you will not be able to use your existing quota to receive premium in the new ring-fence;
- If you buy, sell, lease in or lease out land so that the greatest proportion of your holding is now in a different ring-fence, your ring-fence designation will be altered and you will NOT be able to use your existing quota to receive premium.

Definition of "holding" for the purposes of the ring-fence rules?

39. Your "**holding**" means **all** the production units in the United Kingdom farmed by you or made available to you for farming (not just sheep production). **Please note that this includes any land held under short-term let** and any common land which is credited to your forage area in proportion to your registered share of the common grazing.

40. A holding is defined as being within a particular ring-fence if the greatest proportion of the agricultural area used for farming (**not just sheep farming**) is within that ring-fence.

41. The recipient of the quota must ensure that the quota being transferred or leased in corresponds to the ring-fence in which he or she is located, if the premium is to be paid.

Production units in three or more ring-fences?

42. If your holding contains three or more production units such that at least 50% of your holding is in the LFA and classified SD or D, but the largest production unit is in the non-LFA, the LFA designation will take precedence. For example, if 40% of your holding was located in the Great Britain non-LFA, 35% in the Scottish LFA and 25%

in the English LFA, your holding would be designated as Scottish LFA.

Minimum numbers

43. Minimum numbers no longer apply to sheep annual premium scheme quota transfer and lease transactions.

Is it possible to transfer or lease out part of a quota unit?

44. No. You must transfer or lease whole quota units.

Confirmation of transaction

45. When the Department has processed the notification form, it will inform both the producer transferring or leasing the quota out and the recipient. (The recipient's quota will, in the case of transfers, be net of any deduction siphoned off to the national reserve).

VAT

46. HM Customs and Excise advise that VAT at the standard rate (currently 17.5%) will be applicable to the proceeds of the transfer or lease of quota.

If you have any problems completing either form SAP-Transfer-2001 or SAP Lease-2001

Contact:
Quota Management Section,
Room 220, Pentland House,
47 Robb's Loan
Edinburgh, EH14 1TY
You may use the telephone number given below to contact the person dealing with your notification:-
Fax: 0131-244 6006

If your Local Area Office is	Current QMS Contact	Telephone
Ayr, Elgin, Inverurie, Lairg and Thurso	Mrs M. Fitheridge	0131 244 6626
Dumfries, Galashiels, Kirkwall, Lerwick and Stirling	Mrs A. Wheelan	0131 244 6459
Benbecula, Dundee, Hamilton, Inverness, Oban, Perth, Portree and Stornoway	Mrs F. Allan	0131 244 6560